

ELLISON, SCHNEIDER & HARRIS L.L.P.

CHRISTOPHER T. ELLISON
ANNE J. SCHNEIDER
JEFFERY D. HARRIS
DOUGLAS K. KERNER
ROBERT E. DONLAN
ANDREW B. BROWN

ATTORNEYS AT LAW
2015 H STREET
SACRAMENTO, CALIFORNIA 95814-3109
TELEPHONE (916) 447-2166 FAX (916) 447-3512

LYNN M. HAUG
PETER J. KIEL
JAMES D. McNAIRY
CHRISTOPHER M. SANDERS
JONATHAN R. SCHUTZ
GREGGORY L. WHEATLAND

December 7, 2004

Lance Shaw
Compliance Project Manager
Systems Assessment & Facility Siting Division
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Re: Docketing of Record of Conversation: Walnut Energy Center (02-AFC-4C)

Dear Mr. Shaw:

Per our discussion this afternoon, I am docketing the following materials: (1) the November 2, 2004 email message from Lorraine White to me, including the attached Record of Conversation ("ROC"); and (2) my reply email message dated November 4, 2004, including the attached ROC.

These materials confirm (a) that the 54 acre foot limitation in Soils&Water-5 will remain in the condition language and (b) that there will be no changes to Soils&Water-6 as part of this Amendment #2 for the Walnut Energy Center Project.

Thank you for your attention to this important matter.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'Jeffery D. Harris', with a long horizontal flourish extending to the right.

Jeffery D. Harris

Jeffery Harris

From: Lorraine White [Lwhite@energy.state.ca.us]
Sent: Tuesday, November 02, 2004 5:31 PM
To: Jeffery Harris
Cc: Lance Shaw
Subject: Modified S&W 5 and 6 for Amendment #2 Petition



Harris ROC.doc

Jeff

Attached please find a record of conversation. Please review it to ensure it accurately reflects our discussion last week. Please use this to file your supplement to the Amendment or Stipulation. Thank you.
Lorraine

REPORT OF CONVERSATION

Project Title: Walnut Energy Center (TID)

TELEPHONE / MEETING LOCATION: Telephone

NAME: Jeff Harris

TIME:

DATE: 10.28.04

WITH: Ellison, Schneider & Harris

PHONE: 916 447-2166 x 230

ADDRESS: 2015 H Street, Sacramento, CA 95814; jdh@eslawfirm.com

SUBJECT: Changes to Soil&Water 5 and 6 for TID's Walnut Energy Center Decision

COMMENTS:

I contacted Jeff Harris at the request of Tom Glaviano to discuss with Mr. Harris the concerns I had over requested changes proposed in the Walnut Energy Center Amendment # 2. Specifically, I discussed the changes to Conditions of Certification Soil&Water 5 and 6.

I explained to Mr. Harris that some of the changes requested for Conditions of Certification Soil&Water-5 and 6 go beyond the specified amendment. The original petition (September 3, 2004) and supplement (October 20, 2004) seek to 1) change the bridge water supply from potable water to poorer quality, untreated groundwater until recycled water becomes available and 2) seek to use potable water for hydrostatic testing and flushing of pipes, tanks and equipment rather than poorer quality groundwater. Staff is not yet finished with their analysis of the amendment petition, but needed to clarify the scope of the petition.

The petition does not address any changes in the amount of back-up water that could be used by the project after recycled water becomes available. Staff notes that no analysis or new information is provided to support a change to Condition of Certification Soil&Water 5 or 6 that justifies removing the 54 acre-foot/year cap on groundwater use by WEC and allowing the project to use as much as 1,800 afy of groundwater. This limit was established to restrict groundwater pumping of the overdrafted basin to historical amounts. In the event that additional alternatives need to be considered, these alternatives should appropriately be addressed in the alternative water supply plan to be submitted under S&W 6. No such plan has been submitted to date.

Mr. Harris and I agreed that the changes to S&W 5 will be restricted to the changes requested in the petition only (see below) and no changes will be made to S&W 6. Staff will continue their analysis related to the changes identified in the petition.

COPIES TO:

NAME:

SIGNATURE

SOILS&WATER-5: SOILS&WATER-5: The project's water use shall be limited as described below. For purposes of this condition, the bridge period is defined as that period of time between the commencement of commercial operation of the WEC and the earlier of December 31, 2006 or when recycled water from the City of Turlock's wastewater treatment plant (WWTP) is available to the WEC.

Water for construction purposes shall consist of groundwater provided from the existing TID well at the Walnut substation. Potable water may also be used for construction for the purpose of hydrostatic testing of equipment, pipes and tanks; provided however, the project owner shall minimize the use of potable water for this purpose to the maximum extent feasible. Water, for all purposes, used during the bridge period shall consist of potable water provided by the City of Turlock, and shall not exceed 2 million gallons per day or 1,803 afy.

During the bridge period, water used for cooling and steam cycle make-up shall consist of poor quality groundwater from the upper aquifer supplied from one of two groundwater wells located on either the WEC project site or the TID equipment storage area on South Washington Road (the "South Washington" site). Only one of the two groundwater wells may be operated at any time (with the other well serving as a 100 percent redundant backup). Groundwater production from the wells shall not exceed two million gallons per day or 1,800 afy.

Water for operational and landscaping purposes used after the bridge period shall consist of recycled water from the City of Turlock WWTP and shall not exceed 1,800 afy. Water for domestic needs after the bridge period shall consist of potable water provided by the City of Turlock and shall not exceed 3 afy. Potable water Groundwater from the wells to be located either on the WEC project site or the South Washington site may also be used for back-up to the recycled water supply in the event of a short-term disruption in service and shall not excess 51 afy. Potable water Groundwater from the wells to be located either on the WEC project site or the South Washington site may also be used in the event that recycled water is not available to the project subject to the provisions of SOILS&WATER-6. Alternative water use shall be calculated using a 5-year rolling average.

Verification: The project owner shall notify the Commission no later than May 31, 2006, and in monthly compliance reports thereafter, as to the status of recycled water production by the City of Turlock's WWTP until the WEC is using tertiary treated, recycled water for its non-potable operational and landscaping requirements. This notice shall include information on the issues related to recycled water production, DHS approval for recycled water service and the expected availability of recycled water supplies to WEC. After recycled water service is provided to WEC, the project owner shall report water use to the Commission as required by **SOILS&WATER-7**. Annual average water use shall be calculated using a 5-year rolling average of actual water use starting with the first year of operation. In the event of an interruption or reduction in recycled water service that requires the use of back-up potable water groundwater from the wells to be located either on the WEC project site or the South Washington site, the project owner shall notify the CPM, in writing, within 24 hours.

Jeffery Harris

From: Jeffery Harris
Sent: Thursday, November 04, 2004 10:16 AM
To: 'Lorraine White (CEC)'
Cc: 'Tom Glaviano (CEC)'; 'Randy Baysinger (TID)'; 'Susan Strachan'
Subject: FW: Modified S&W 5 and 6 for Amendment #2 Petition

Importance: High



Harris ROC2.doc

Lorraine,

Please find attached my three comments. I marked the following changes:

- Delete extra "SOIL and WATER-5" in the first line.
- Add "and flushing" to the hydrostatic testing, per Randy's October 20, 2004 letter to Lance.
- Change "excess" to "exceed" as it was in the original.

As for the approval process, I thought we could handle it by email that we docket; i.e., you look at my proposed changes. If they are acceptable, you send me a new email with the final attachment, asking me to confirm. I confirm by reply email. We docket the reply email. Is that OK? (I am "cc'ing" Tom to see if he agrees that a docketed confirming reply is sufficient.)

Thanks.

Jeffery D. Harris
Ellison, Schneider & Harris, LLP
2015 H Street
Sacramento, CA 95814
(916) 447-2166 Ext. 230 (Ph)
(916) 447-3512 (Fax)
jdh@eslawfirm.com <mailto:jdh@eslawfirm.com>

CONFIDENTIALITY NOTICE: This communication and any accompanying document(s) are confidential and privileged. They are intended for the sole use of the addressee. If you receive this transmission in error, you are advised that any disclosure, copying, distribution, or the taking of any action in reliance upon the communication is strictly prohibited. Moreover, any such inadvertent disclosure shall not compromise or waive the attorney-client privilege as to this communication or otherwise. If you have received this communication in error, please contact the sender at the internet address indicated or by telephone at (916)447-2166. Thank you.

California Energy Commission
Systems Assessment &
Facilities Siting Division

File: TID Amendment #2

REPORT OF CONVERSATION

Project Title: Walnut Energy Center (TID)

TELEPHONE / MEETING LOCATION: Telephone

NAME: Jeff Harris

TIME:

DATE: 10.28.04

WITH: Ellison, Schneider & Harris

PHONE: 916 447-2166 x 230

ADDRESS: 2015 H Street, Sacramento, CA 95814; jdh@eslawfirm.com

SUBJECT: Changes to Soil&Water 5 and 6 for TID's Walnut Energy Center Decision

COMMENTS:

I contacted Jeff Harris at the request of Tom Glaviano to discuss with Mr. Harris the concerns I had over requested changes proposed in the Walnut Energy Center Amendment # 2. Specifically, I discussed the changes to Conditions of Certification Soil&Water 5 and 6.

I explained to Mr. Harris that some of the changes requested for Conditions of Certification Soil&Water-5 and 6 go beyond the specified amendment. The original petition (September 3, 2004) and supplement (October 20, 2004) seek to 1) change the bridge water supply from potable water to poorer quality, untreated groundwater until recycled water becomes available and 2) seek to use potable water for hydrostatic testing and flushing of pipes, tanks and equipment rather than poorer quality groundwater. Staff is not yet finished with their analysis of the amendment petition, but needed to clarify the scope of the petition.

The petition does not address any changes in the amount of back-up water that could be used by the project after recycled water becomes available. Staff notes that no analysis or new information is provided to support a change to Condition of Certification Soil&Water 5 or 6 that justifies removing the 54 acre-foot/year cap on groundwater use by WEC and allowing the project to use as much as 1,800 afy of groundwater. This limit was established to restrict groundwater pumping of the overdrafted basin to historical amounts. In the event that additional alternatives need to be considered, these alternatives should appropriately be addressed in the alternative water supply plan to be submitted under S&W 6. No such plan has been submitted to date.

Mr. Harris and I agreed that the changes to S&W 5 will be restricted to the changes requested in the petition only (see below) and no changes will be made to S&W 6. Staff will continue their analysis related to the changes identified in the petition.

COPIES TO:

NAME:

SIGNATURE

SOILS&WATER-5: ~~SOILS&WATER-5:~~ The project's water use shall be limited as described below. For purposes of this condition, the bridge period is defined as that period of time between the commencement of commercial operation of the WEC and the earlier of December 31, 2006 or when recycled water from the City of Turlock's wastewater treatment plant (WWTP) is available to the WEC.

Water for construction purposes shall consist of groundwater provided from the existing TID well at the Walnut substation. Potable water may also be used for construction for the purpose of hydrostatic testing and flushing of equipment, pipes and tanks; provided however, the project owner shall minimize the use of potable water for this purpose to the maximum extent feasible. Water, for all purposes, used during the bridge period shall consist of potable water provided by the City of Turlock, and shall not exceed 2 million gallons per day or 1,803 afy.

During the bridge period, water used for cooling and steam cycle make-up shall consist of poor quality groundwater from the upper aquifer supplied from one of two groundwater wells located on either the WEC project site or the TID equipment storage area on South Washington Road (the "South Washington" site). Only one of the two groundwater wells may be operated at any time (with the other well serving as a 100 percent redundant backup). Groundwater production from the wells shall not exceed two million gallons per day or 1,800 afy.

Water for operational and landscaping purposes used after the bridge period shall consist of recycled water from the City of Turlock WWTP and shall not exceed 1,800 afy. Water for domestic needs after the bridge period shall consist of potable water provided by the City of Turlock and shall not exceed 3 afy. ~~Potable water~~ Groundwater from the wells to be located either on the WEC project site or the South Washington site may also be used for back-up to the recycled water supply in the event of a short-term disruption in service and shall not exceed 51 afy. Potable water ~~Groundwater from the wells to be located either on the WEC project site or the South Washington site may also be used in the event that recycled water is not available to the project subject to the provisions of SOILS&WATER-6. Alternative water use shall be calculated using a 5-year rolling average.~~

Verification: The project owner shall notify the Commission no later than May 31, 2006, and in monthly compliance reports thereafter, as to the status of recycled water production by the City of Turlock's WWTP until the WEC is using tertiary treated, recycled water for its non-potable operational and landscaping requirements. This notice shall include information on the issues related to recycled water production, DHS approval for recycled water service and the expected availability of recycled water supplies to WEC. After recycled water service is provided to WEC, the project owner shall report water use to the Commission as required by SOILS&WATER-7. Annual average water use shall be calculated using a 5-year rolling average of actual water use starting with the first year of operation. In the event of an interruption or reduction in recycled water service that requires the use of ~~back-up potable water~~ groundwater from the wells to be located either on the WEC project site or the South Washington site, the project owner shall notify the CPM, in writing, within 24 hours.